

### **REMARKS**

Claims 1, 2, 5-7, 9-11 and 13-16 are pending and under consideration in the above-identified application.

In the Office Action, Claims 1, 2, 5-7, 9-11 and 13-16 were rejected.

In this Amendment, Claims 7, 9 – 11, 14 and 15 are amended. No new matter has been introduced as a result of this Amendment.

Accordingly, Claims 1, 2, 5-7, 9-11 and 13-16 remain at issue.

#### **I. Objection of Claims**

Claims 11, 14, and 15 were objected to because of informalities.

As required by the Examiner, Claims 11, 14 and 15 have been appropriately amended.

Accordingly, Applicant respectfully requests that this claim objection be withdrawn.

#### **II. 35 U.S.C. § 112 Indefiniteness Rejection of Claims**

Claims 9-11 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As required by the Examiner, Applicant has amended Claims 9-11 to clarify the common indefinite limitation at issue. As such, the indefinite limitation has been amended to refer to the appropriate information fragments so that the flags are contained in the “another information fragments” which correspond to the “another transmitted information packet.”

Accordingly, Applicant respectfully requests that this claim rejection be withdrawn.

#### **III. 35 U.S.C. § 103 Obviousness Rejection of Claims**

Claims 1, 2, 6, 7, and 13-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jalali* in view of *Tseung* (U.S. Patent No. 5,109,384) and *Gosh* (U.S. Patent No. 6,678,523). Although, Applicant respectfully traverses this rejection, Claims 1, 6, and 9 – 11 have been amended to clarify the invention and remove any ambiguities

Claim 1 is directed to an information processing apparatus configured for transmitting information to a transmission party via a network in predetermined information units.

In the relevant part, Claim 1 requires “a setting unit for setting a flag indicating that the time clocked by the clocking unit exceeds the reference time value when determined by the determination unit and that the transmission of the first set of information units is cancelled.”

This is clearly unlike *Jalali*, *Tseung* and *Gosh*. The Examiner acknowledges that *Jalali* does not explicitly disclose “setting a flag indicating that the clocked time exceeds the time reference value, but asserts that *Tseung* allegedly does and points to the Abstract and Column 22, lines 62 and 63, for support.

Applicants are in agreement that *Tseung* sets a flag when the acknowledgement timer set by the retransmission station 20 expires. The Examiner advances that *Tseung* also writes the set flag in the second set of information units. Applicants respectfully disagree and note that *Tseung* only writes the flag in the unacknowledged message to be resend but not in the second set of information units which make up the next message yet to send, as required by Claim 1.

In fact, *Tseung* states in Column 22, line 54 - 68, that (emphasis added):

*“The retransmission station 20 uses an acknowledgement timer in order to test for lost or distorted messages. After the retransmission station 20 sends a message on network B18, it starts a timer. Normally, the acknowledgement message from the designated recorder station 28 is expected to arrive before the timer expires. In case of a lost or distorted message, the designated recorder station 28 does not send an acknowledgement message. The timer would expire (the ACK timer expired on network B flag 866 would be set) and the last unacknowledged message 913 is resent (as tested for by decision block 88). This message can be picked up by using the pointer to last sent message 902 in the message control block for DRC 834. The processing routine which sends the message is called ACKTIM 90.”*

and in Column 23, lines 18 – 34, that (emphasis added):

*“FIG. 8 shows the processing routine ACKTIM 90. This processing routine is entered when the acknowledgement timer expires (generally indicating that the designated recorder station 28 failed to send an acknowledgement message back to the retransmission station 20). The failure may be due to CRC or missing messages either from the retransmission station 20 or from the designated recorder station 28. The retransmission station 20 tries to rebroadcast the previously sent message (at block 120), but there is a limit to how many times it can keep trying. If the limit (maximum retry limit 854) is exceeded (as tested for by blocks 114, 116), the error is regarded as fatal.*

This occurs if the designated recorder 28 is down or there are unrecoverable hardware errors. On fatal error, a fatal error indicator (fatal error number 824) is set (block 118) and no more rebroadcast occurs.”

Still *Tseung* states in Column 22, lines 22 – 33, that (emphasis added):

*“The retransmission station 20 waits for some event such as reception of a message to occur (the MSG received on network A flag 858 or MSG received on network B flag 860 is set) and then dispatches to a special processing routine to handle the event. At the end of the special processing routine, control returns back to the main line of processing and if there were no errors, the retransmission station 20 waits for the next event as shown on FIG. 5. If there are fatal errors, control is passed to the fatal error handling 76 portion for processing. The program exits after the fatal error processing in the embodiment shown.”*

That is, *Tseung* teaches that when the ACK timer expired on network B flag 866 is set and the last unacknowledged message 913 is resent. This message 913 which includes flag 866 can be picked up by using the pointer to last sent message 902 in the message control block for DRC 834. The processing routine, which sends the message and is called ACKTIM 90, is entered when the ACK timer expires (generally indicating that the designated recorder station 28 failed to send an acknowledgement message back to the retransmission station 20). In this ACKIM 90 routine, the retransmission station 20 tries to rebroadcast the previously sent message (at block 120), but there is a limit to how many times it can keep trying. If the limit is exceeded, the error is regarded as fatal. This occurs if the designated recorder station 28 is down or there are unrecoverable hardware errors. On fatal error, a fatal error indicator is set and no more rebroadcast occurs.

So clearly, *Tseung* only writes the flag in the unacknowledged message to be resend but not in the second set of information units which make up the next message yet to be sent, as required by Claim 1. Moreover, in *Tseung* the set flag is not indicative that the transmission of the first set of information units is cancelled, as required by Claim 1.

Moreover, the Examiner indicated that *Jalali* does not explicitly disclose “a flag indicating that the time clocked by said clocking unit exceeds said reference time value when determined by said determination unit and that the transmission of said first set of information

units is cancelled and is not retransmitted, and writing said flag into each of said second set of information units which are transmitted by said second transmission unit when said flag is set by said setting unit” but asserted that *Gosh* allegedly does and points to the Abstract, for support.

However, *Gosh* states in the Abstract that (emphasis added):

“A method of combining soft-handoff with a hybrid ARQ scheme to maximize throughput and gain in a communications system. After receiving a frame from the MS (110), the BTSs (104 and 106) will process the frame and communicate to the MS over a forward control channel whether the frame contained any errors. *If all BTSs communicate that the frame contains errors, the MS will retransmit the same frame to all BTSs with a flush bit set to instruct the BTSs 104 and 106 to combine the retransmitted frame with the original frame. If only some BTSs communicate that the frame contains errors, the MS will transmit the next frame to all BTSs that successfully decoded the frame with the flush bit set to instruct the BTSs to erase the previous frame from memory and not to combine the previous frame with the current frame. The MS will retransmit the frame to the BTSs that did not successfully decode the frame with the flush bit set to instruct the BTSs to combine the previous frame with the retransmitted frame.*”

First, in *Gosh* the flush bit (flag) relates to transmitted frames containing errors and not to exceeded reference time value. Thus, the flag set by *Tseung* and the flag set by *Gosh* represent two separate and distinct frame transmission issues. Moreover, in *Gosh* the MS retransmits the previous frame (first set of information units) that was received with embedded errors whereas in the claimed invention the transmission of the first set of information units is cancelled when the reference time value is exceeded. In addition, in *Gosh* when only some BTSs communicate that the frame contains errors, the BTSs that successfully decoded the previous frame are instructed to erase this previous frame from memory, in contrast to the claimed invention which teaches canceling only frames that were not successfully transmitted, i.e., for which the reference time value was exceeded.

Thus, for at least the above reasons *Gosh* may properly be combined with *Jalali* and *Tseung* to reject Claim 1. Therefore, Claim 1 is patentable over these three references, taken singly or in combination with each other, as are dependent Claims 2, 5, 13, and 16, for at least the same reasons.

Independent Claims 6, 7, and 9 – 11, which each recites the same distinguishable limitation as that of Claim 1, are also patentable over these three references, taken singly or in

combination with each other, as are corresponding dependent claims, for at least the same reasons.

Accordingly, Applicant respectfully request that this claim rejection be withdrawn.

**IV. 35 U.S.C. § 103 Obviousness Rejection of Claim 5**

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jalali* in view of *Tseung* and *Gosh* as applied to Claim 2 above and further in view of *Kamihara* (U.S. Patent No. 6,854,020). Applicant respectfully traverses this rejection.

Claim 5 is dependent on Claim 1 shown above to be patentable over *Jalali*, *Tseung* and *Gosh*. Moreover, in addition to *Jalali*, *Tseung* and *Gosh*, *Kamihara* also fails to teach or suggest a flag indicating that the time clocked by the clocking unit exceeds the reference time value when determined by the determination unit and that the transmission of the first set of information units is cancelled.

As such, Claim 1 is patentable over *Jalali*, *Tseung*, *Gosh* and *Kamihara*, taken singly or in combination with each other, as is dependent Claim 5 for at least the same reasons.

Accordingly, Applicants respectfully request that these 35 U.S.C. § 103 claim rejections be withdrawn.

**V. 35 U.S.C. § 103 Obviousness Rejection of Claims 9 – 11**

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Hamilton* in view of *Gosh* and *Tseung*.

Claims 9 - 11 recite the same distinguishable limitation as that of Claim 1.

In addition to *Gosh* and *Tseung*, *Hamilton* also fails to teach or suggest that the set flags are indicative that a clocked transmission time of the information fragments exceeds a reference time value and that the transmission of the information fragments is cancelled.

As such, Claims 9 – 11 are patentable over *Gosh*, *Tseung*, and *Hamilton*, taken singly or in combination with each other.

Accordingly, Applicant respectfully request that this claim rejection be withdrawn.

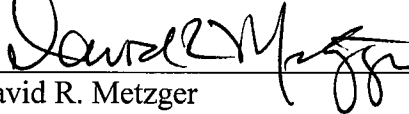
**VI. Conclusion**

In view of the above amendments and remarks, Applicant submits that Claims 1, 2, 5-7, 9-11 and 13-16 are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

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By:

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